



**BERMUDA
1974 : 75**

**MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS)
ACT 1974**

ARRANGEMENT OF SECTIONS

1	Interpretation	9A	Powers of the court to make orders for the protection of a party to a marriage of a child who has his home with the complainant
2	Jurisdiction of magistrates' court in matrimonial proceedings	9B	Supplementary provisions with respect to orders under section 9A
3	Order by magistrates' court in matrimonial proceedings	9C	Powers of arrest for breach of section 9A
4	Supplementary provisions with respect to order for care or supervision of child	10	Complaint for variation, etc. by or against person outside Bermuda
5	Special powers and duties with respect to children	11	Parties to complaint for variation, etc
6	Refusal of order in case more suitable for Supreme Court	12	Appeals
7	Interim order by magistrates' court or Supreme Court	13	Enforcement, etc
8	Suspension or cessation of orders	14	Parties domiciled outside Bermuda
9	Revocation, revival and variation of orders	14A	Restrictions on persons attending proceedings of the court
		15	[omitted]

**MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) ACT
1974**

16 Commencement [omitted]

SCHEDULE
[omitted]

[5 July 1974]

[preamble and words of enactment omitted]

Interpretation

1 In this Act—

"adopted" means adopted in pursuance of an adoption order made under the Adoption of Children Act 1963 [*title 27 item 22*], or any previous enactment relating to the adoption of children;

"child", in relation to one or both of the parties to a marriage, includes an adopted child of that party or, as the case may be, of both parties;

"child of the family", in relation to the parties to a marriage, means—

- (a) a child of both of those parties; and
- (b) any other child, not being a foster-child within the meaning of the Children Act 1998 [*title 27 item 26*], who has been treated by both of those parties as a child of their family;

"collecting officer" means the clerk of the court;

"court", unless the context otherwise requires, means a court of summary jurisdiction;

"custody", in relation to a child, includes access to the child;

"dependant" means a person—

- (a) who is under the age of sixteen years; or
- (b) who, having attained the age of sixteen but not of twenty-one years, is either receiving full-time instruction at an educational establishment or undergoing training for a trade, profession or vocation in such circumstances that he is required to devote the whole of his time to that training for a period of not less than two years; or
- (c) whose earning capacity is impaired through illness or disability of mind or body and who has not attained the age of twenty-one years;

"the Director" means the Director of Child and Family Services;

"interim order" means an order under section 7 and includes any order made by virtue of section 9 varying or reviving an order under section 7;

"magistrates' court" means a court of summary jurisdiction;

"matrimonial order" means an order under section 3 and includes any order made by virtue of section 9 varying or reviving an order under section 3;

"minor" means a person who has not attained the age of twenty-one years;

"rules" means rules made under section 21 of the Magistrates Act 1948 [*title 8 item 15*].

[Section 1 amended by 1998:38 effective 1 January 2000; "child" and "collecting officer" amended by 2002:36 Sch para 17(a) effective 19 January 2004. NB reference to 21 years in "dependant" not amended by 2001:20 – see s.6(3) & Sch 1 to that Act.]

Jurisdiction of magistrates' court in matrimonial proceedings

2 (1) A married woman or a married man may apply by way of complaint to a magistrates' court for an order under this Act against the other party to the marriage on any of the following causes of complaint arising during the subsistence of the marriage, that is to say, that the defendant—

- (a) has failed to provide such maintenance for the complainant or for any child of the family as is reasonable in the circumstances; or
- (b) has behaved in such a way that the complainant cannot reasonably be expected to live with the defendant; or
- (c) has deserted the complainant.

(2) A magistrates' court shall have jurisdiction to hear a complaint under this section if at the date of the making of the complaint either the complainant or the defendant ordinarily resides in Bermuda.

Order by magistrates' court in matrimonial proceedings

3 (1) Subject to this section and of section 5, on hearing a complaint under section 2 by either of the parties to a marriage the court may make an order (in this Act referred to as a "matrimonial order") containing any one or more of the following provisions, namely—

- (a) [*deleted by 1983:49*]
- (b) a provision that the husband shall pay to the wife such weekly sum or other periodical payments as the court

**MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) ACT
1974**

- considers reasonable in all the circumstances of the case;
- (c) where, by reason of the impairment of the husband's earning capacity through age, illness, or disability of mind or body, it appears to the court reasonable in all the circumstances so to order, a provision that the wife shall pay to the husband such weekly sum or other periodical payments as the court considers reasonable in all the circumstances of the case;
 - (d) a provision for the legal custody of any child of the family who is under the age of sixteen years;
 - (e) if, in the case of any child committed by the order to the legal custody of any person, it appears to the court that there are exceptional circumstances making it desirable that the child should be under the supervision of an independent person, a provision that the child be under the supervision of the Director;
 - (f) a provision for access to any child of the family by either of the parties or by any other person who is a parent of that child, in a case where the child is committed by the order to the legal custody of a person other than that party or parent;
 - (g) a provision for the making by the defendant or by the complainant or by each of them, for the maintenance of any child of the family, of payments by way of a weekly sum or other periodical payments being—
 - (i) if and for so long as the child is under the age of sixteen years, payments to any person to whom the legal custody of the child is for the time being committed by the order, or by any other order made by a court in Bermuda and for the time being in force,
 - (ii) if it appears to the court that the child is, or will be, or if such payments were made would be, a dependant though over the age of sixteen years, and that it is expedient that such payments should be made in respect of that child while such a dependant, payments to such person (who may be the child) as may be specified in the order, for such period during which the child is over that age but under the age of twenty-one years as may be so specified.

(2) The court shall not make an order containing such a provision as is mentioned in subsection (1)(d) or (e) in respect of any child with respect to whose custody an order made by a court in Bermuda is for the time being in force.

(3) In considering whether any, and if so what, provision should be included in a matrimonial order by virtue of subsection (1)(g) for payments by one of the parties in respect of a child who is not a child of that party, the court shall have regard to the extent, if any, to which that party had, on or after the acceptance of the child as one of the family, assumed responsibility for the child's maintenance, and to the liability of any person other than a party to the marriage to maintain the child.

[Section 3 amended by 1998:38 effective 1 January 2000. NB reference to 21 years in subsection (1)(g)(ii) not amended by 2001:20 – see s.6(3) & Sch 1 to that Act.]

Supplementary provisions with respect to order for care or supervision of child

4 (1) Where a matrimonial order provides for a child to be under the supervision of the Director the child shall, for the purposes of such supervision but not further or otherwise, be deemed to be a foster-child within the meaning of the Children Act 1998 [*title 27 item 26*].

(2) Any provision of a matrimonial order that a child be under the supervision of the Director shall cease to have effect as respects any child when the child attains the age of sixteen years.

[Section 4 amended by 1998:38 effective 1 January 2000]

Special powers and duties with respect to children

5 (1) Where the court has begun to hear a complaint—

(a) under section 2; or

(b) for the variation of a matrimonial order—

(i) by the revocation, addition or alteration of provision for the legal custody of a child; or

(ii) by the revocation of a provision that a child be under the supervision of the Director (see 1998:38 effective 1 January 2000); or

(c) for the revocation of a matrimonial order consisting of or including any such provision as aforesaid,

then, whether or not the court makes the order for which the complaint is made, but subject to section 3(2) and (3) and subsection (6) of this section, the court may make a matrimonial order containing, or, as the

**MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) ACT
1974**

case may be, vary the matrimonial order so that it contains, any provision such as is mentioned in section 3(1)(d) to (g) which, after giving each party to the proceedings an opportunity of making representations, the court thinks proper in all the circumstances; and the court shall not dismiss or make its final order on any complaint in a case where the powers conferred on the court by this subsection are or may be exercisable until it has decided whether or not, and if so how, those powers should be exercised.

(2) Where, on hearing such a complaint as aforesaid or a complaint for the variation of a matrimonial order by the revocation, addition or alteration of provision for access to a child, the court, after it has made any decision which falls to be made on the complaint with respect to any provision such as is mentioned in section 3(1)(a) to (c), is of the opinion that it has not sufficient information to make the decision required by subsection (1) or, as the case may be, to make a decision as to access to the child, the court may call for a report, either oral or in writing, by **the Director (see 1998:38 effective 1 January 2000)**, with respect to such matters as the court may specify, being matters appearing to the court to be relevant to that decision.

(3) Any statement which is or purports to be a report in pursuance of subsection (2) shall be made, or if in writing be read aloud, before the court at a hearing of the complaint, and immediately after it has been so made or read aloud the court shall ask whether any party to the proceedings who is present or represented by counsel at the hearing objects to anything contained therein; and where objection is made—

(a) the court shall require the person by whom the statement was or purported to be made to give evidence on oath with respect to the matters referred to therein; and

(b) any party to the proceedings may give or call evidence with respect to any matter referred to in the statement or in any evidence given by that person.

(4) Subject to subsection (5), the court may take account of any statement made or read aloud under subsection (3) and of any evidence given under paragraph (a) of that subsection, so far as that statement or evidence relates to the matters specified by the court under subsection (2), notwithstanding any Act or rule of law relating to the admissibility of evidence.

(5) A report in pursuance of subsection (2) shall not include anything said by either of the parties to a marriage in the course of an interview which took place with a social worker with a view to the reconciliation of those parties, unless both parties have consented to its inclusion; and if anything so said is included without the consent of both those parties as part of any statement made or read aloud under

subsection (3), then, unless both those parties agree otherwise, that part of the statement shall, for the purposes of the giving of evidence under subsection (3) and for the purposes of subsection (4), be deemed not to be contained in the statement.

(6) On the hearing of a complaint under section 2 in the case of which there is a child of the family who is not a child of both the parties, other than a child with respect to whose custody an order made by a court in Bermuda is for the time being in force—

(a) subsections (1) and (3) shall have effect as if any person who, though not a party to the proceedings, is a parent of that child and who is present or represented by counsel at the hearing were a party to the proceedings; and

(b) if any such person is not so present or represented, the court shall not make a matrimonial order on the complaint unless it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed by rules, that such steps have been taken as may be so prescribed with a view to giving notice to that person of the making of the complaint and of the time and place appointed for the hearing.

(7) Where for the purposes of this section the court adjourns the hearing of any complaint, then, on the court being satisfied that adequate notice of the time and place of the resumption of the hearing was given to the parties, the court may resume the hearing at the time and place appointed notwithstanding the absence of both or all of the parties.

[Section 5 amended by 1998:38 effective 1 January 2000; proviso to subsection (6) deleted by 2002:36 Sch para 17(b) effective 19 January 2004]

Refusal of order in case more suitable for Supreme Court

6 Where on hearing any complaint under section 2 a magistrates' court is of the opinion that any of the matters in question between the parties would be more conveniently dealt with by the Supreme Court, the magistrates' court may refuse to make a matrimonial order on the complaint, and no appeal shall lie from that refusal; but if in any proceedings in the Supreme Court relating to or comprising the same subject matter as that complaint the Supreme Court so orders, the complaint shall be re-heard and determined by a magistrates' court.

Interim order by magistrates' court or Supreme Court

7 (1) Where in the case of any complaint made to a magistrates' court under section 2—

**MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) ACT
1974**

- (a) the magistrates' court, at any time before making its final order on the complaint, adjourns the hearing of the complaint for any period exceeding one week; or
- (b) the magistrates' court refuses by virtue of section 6 to make a matrimonial order on the complaint; or
- (c) after such a refusal by the magistrates' court as aforesaid, or on an appeal under section 12 from, or from the refusal of, a matrimonial order on the complaint, the Supreme Court by virtue of section 6 or 12 orders that the complaint shall be re-heard by a magistrates' court,

then, in a case falling within paragraph (a) or (b) the magistrates' court, or in a case falling within paragraph (c) the Supreme Court may make an order under this section (in this Act referred to as an "interim order").

(2) An interim order may contain—

- (a) any such provision as is mentioned in section 3(1)(b), (c) or (g); and
- (b) where by reason of special circumstances the court thinks it proper, but subject to section 3(2), provision such as is mentioned in paragraph (d) or (f) of that subsection, and for the purposes of paragraph (a) of this subsection the reference in sub-paragraph (i) of the said paragraph (g) to any person to whom the legal custody of a child is for the time being committed by an order shall be construed as including a reference to any person, being one of the parties or a parent of the child, who for the time being has the care of the child; and an appeal against an interim order shall not lie if the appeal relates only to such a provision of the order as is mentioned in paragraph (a) of this subsection.

(3) Without prejudice to sections 8, 9 and 12, an interim order in connection with any complaint shall cease to be in force on whichever of the following dates occurs first—

- (a) the date, if any, specified for the purpose in the interim order;
- (b) the date of the expiration of the period of three months beginning with the date of—
 - (i) the making of the interim order; or
 - (ii) if the interim order is one of two or more such orders made with respect to the same complaint by virtue of the same paragraph of subsection

(1), the making of the first of those interim orders;

(c) the date of the making of a final order on, or the dismissal of, the complaint by a magistrates' court.

(4) An interim order made by the Supreme Court under this section on ordering that a complaint be re-heard by a magistrates' court shall, for the purposes of its enforcement and for the purposes of section 9, be treated as if it were an order of that court and not of the Supreme Court.

(5) The powers conferred on the Supreme Court by this section shall be without prejudice to the powers of that court on an appeal under section 12 from the refusal of an interim order by a magistrates' court.

Suspension or cessation of orders

8 (1) Where a matrimonial or interim order is made while the parties to the marriage in question are cohabiting—

(a) the order shall not be enforceable and no liability shall accrue thereunder until they have ceased to cohabit; and

(b) if in the case of a matrimonial order they continue to cohabit for the period of three months beginning with the date of the making of the order, the order shall cease to have effect at the expiration of that period:

Provided that, unless the court in making the order directs otherwise, this subsection shall not apply to any provision of the order—

(i) committing a child to the legal custody of a person other than one of the parties, or for access to that child by either of the parties or by any other person who is a parent of the child; or

(ii) providing for a child to be under the supervision of the Director; or

(iii) for the making by either or each of the parties to a person other than one of the parties of payments for the maintenance of a child.

(2) Without prejudice to section 9, any provision of a matrimonial or interim order other than such a provision as is referred to in the proviso to subsection (1) shall cease to have effect upon the parties to the marriage in question resuming cohabitation.

(3) Where after the making by a magistrates' court of—

MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) ACT 1974

- (a) a matrimonial order consisting of or including a provision such as is mentioned in section 3(1)(b), (c) or (g); or
- (b) an interim order; or
- (c) an order under section 9A,

proceedings between, and relating to the marriage of, the parties to the proceedings in which that order was made have been commenced in the Supreme Court, the Supreme Court may, if it thinks fit, direct that the said provision, interim order or order, as the case may be, shall cease to have effect on such date as the Supreme Court may specify.

[Section 8 amended by 1998:38 effective 1 January 2000]

Revocation, revival and variation of orders

9 (1) Subject to section 5 where a court has made any matrimonial or interim order, the court may, by order on complaint, revoke, revive or vary the order and a complaint for the said purpose may be heard whatever the time at which it is made; and for the purposes of this Act "vary" in relation to any order includes the addition to that order of any provision authorised by this Act to be included in such an order:

Provided that, without prejudice to the powers and duties of the court under section 5, nothing in this section shall authorise the making of a complaint—

- (a) for the variation of an order by the addition of a provision providing for a child to be under the supervision of the Director (see 1998:38 effective 1 January 2000); or
- (b) for the revival of any such provision as aforesaid which has ceased to be in force.

(2) Where on a complaint for the revocation of a matrimonial order it is proved that the parties to the marriage in question have resumed cohabitation the court shall revoke the order:

Provided that the court shall not be bound by reason of such a resumption of cohabitation to revoke any provision of the order such as is mentioned in the proviso to section 8(1).

[Section 9 amended by 1998:38 effective 1 January 2000]

Powers of the court to make orders for the protection of a party to a marriage of a child who has his home with the complainant

9A (1) Either party to a marriage may, whether or not an application is made by that party for an order under this Act, apply by way of complaint to a magistrates' court for an order under this section.

(2) Where on an application for an order under this section the court is satisfied that the defendant has molested the complainant or a child who has his home with the complainant, and that it is necessary for the protection of the complainant or a child who has his home with the complainant that an order should be made under this subsection, the court may make one or more of the following orders—

- (a) an order that the defendant shall not molest the complainant;
- (b) an order that the defendant shall not molest a child who has his home with the complainant;
- (c) an order excluding the defendant from the matrimonial home or a part of the matrimonial home or from a specified area in which the matrimonial home is included;
- (d) an order requiring the defendant to permit the complainant to enter and remain in the matrimonial home or a part of the matrimonial home;
- (e) an order prohibiting the defendant from entering the matrimonial home.

(3) Where on application for an order under this section the court is satisfied that there is imminent danger of physical injury to the complainant or a child who has his home with the complainant, the court may make an order under subsection (2) notwithstanding—

- (a) that the summons has not been served on the defendant within a reasonable time before the hearing of the application; or
- (b) that the summons requires the defendant to appear at some other time,

and any order made by virtue of this subsection is in this section and in section 9B referred to as an "expedited order".

(4) An expedited order shall not take effect until the date on which notice of the making of the order is served on the defendant in such manner as may be prescribed or, if the court specifies a later date as the date on which the order is to take effect, that later date, and an expedited order shall cease to have effect on whichever of the following dates occurs first—

- (a) the date of the expiration of the period of 28 days beginning with the date of the making of the order; or
- (b) the date of the commencement of the hearing of the application for an order under this section.

**MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) ACT
1974**

(5) An order under this section may be made subject to such exceptions or conditions as may be specified in the order and, subject in the case of an expedited order to subsection (4), may be made for a term not exceeding three months.

(6) The court in making an order under subsection (2)(a) or (b) may include provision that the defendant shall not incite or assist any other person in molesting the complainant or, as the case may be, a child who has his home with the complainant.

(7) This section and section 9B shall apply to a man and woman who are living with each other in the same household as husband and wife and to former spouses as it applies to the parties to a marriage.

(8) For the purposes of this section and sections 9B and 9C "matrimonial home" means any building or part thereof where—

- (a) the parties to a marriage live with each other in the same household;
- (b) a man and woman live with each other as husband and wife in the same household;
- (c) former spouses last lived with each other in the same household before the dissolution of the marriage and which at the date of the application for an order under this section is occupied by one of the former spouses.

Supplementary provisions with respect to orders under section 9A

9B (1) A magistrates' court shall, on the application made by either party to the marriage in question, have power by order to vary or revoke any order made under section 9A.

(2) Rules may be made for the purpose of giving effect to section 9A and any such rules may in particular, but without prejudice to the generality of this subsection, make provision for the hearing without delay of any application for an order under section 9A(2)(c), (d) and (e).

(3) The expiry by virtue of section 9A(4) of an expedited order shall not prejudice the making of a further expedited order under that section.

(4) Except so far as the exercise by the defendant of a right to occupy the matrimonial home is suspended by virtue of an order under section 9A(2), an order made under that section shall not affect any estate or interest in the matrimonial home of the defendant or any other person.

Powers of arrest for breach of section 9A

9C (1) Where a magistrates' court makes an order under section 9A which provides that the defendant—

- (a) shall not use violence against the complainant;
- (b) shall not use violence against a child who has his home with the complainant;
- (c) shall not enter the matrimonial home or a specified area in which the matrimonial home is included,

the court may, if it is satisfied that the defendant has caused actual bodily harm to the complainant or, as the case may be, to the child concerned and considers that he is likely to do so again, attach a power of arrest to the order.

(2) Where by virtue of subsection (1) a power of arrest is attached to an order, a police officer may arrest without a warrant a person whom he has reasonable cause for suspecting of being in breach of any such provision of the order as is mentioned in subsection (1) (a), (b) or (c) by reason of that person's use of violence or, as the case may be, his entry into the matrimonial home or area.

(3) Where a power of arrest is attached to an order under subsection (1) and the defendant is arrested under subsection (2)—

- (a) he shall be brought before a magistrate within a period of 48 hours beginning at the time of his arrest; and
- (b) the magistrate before whom he is brought may remand him.

In reckoning for the purposes of this subsection any period of 48 hours, no account shall be taken of any Sunday, Christmas Day, Good Friday or any other public holiday.

(4) Where a court has made an order under section 9A but has not attached to the order a power of arrest under subsection (1), then, if at any time the complainant for that order considers that the other party in question has disobeyed the order, he may apply for the issue of a warrant for the arrest of that other party to a magistrate; but the magistrate shall not issue a warrant on such an application unless—

- (a) the application is substantiated on oath; and
- (b) the magistrate has reasonable grounds for believing that the other party concerned has disobeyed that order.

(5) The magistrates' court before whom any person is brought by virtue of a warrant under subsection (4) may remand him.

**MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) ACT
1974**

Complaint for variation, etc. by or against person outside Bermuda

10 (1) Any jurisdiction conferred on a court by virtue of section 9 is exercisable notwithstanding that the proceedings are brought by or against a person residing outside Bermuda:

Provided that a matrimonial order shall not be varied by the addition of such a provision as is mentioned in section 3(1)(a) if the defendant to the complaint for variation resides outside Bermuda.

(2) Where, at the time and place appointed for the hearing of a complaint by virtue of section 9 of this Act, the defendant does not appear but—

- (a) the court is satisfied that there is reason to believe that the defendant has been outside Bermuda during the whole of the period beginning one month before the making of the complaint and ending with the date of the hearing; and
- (b) it is proved to the satisfaction of the court, on oath, or in such other manner as may be prescribed by rules, that such steps have been taken as may be so prescribed with a view to giving notice to the defendant of the making of the complaint and of the time and place aforesaid,

the court may, if it thinks it reasonable in all the circumstances so to do, proceed to hear and determine the complaint at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the defendant had appeared at that time and place.

(3) Where a complaint for the revocation or variation of any provision for the making of payments by the complainant to the defendant is heard by virtue of subsection (2) in the absence of the defendant, and the court is satisfied that there is reason to believe that during the period of six months immediately preceding the making of the complaint the defendant was continuously outside Bermuda or was not in Bermuda on more than thirty days, then, if in all the circumstances, and having regard to any communication to the court in writing purporting to be from the defendant, the court thinks it reasonable so to do, the court may make the order for which the complaint is made or make such variation in that provision by way of reducing the amount of the payments as the court thinks fit.

(4) For the purposes of the hearing by virtue of subsection (2), in the absence of the defendant, of a complaint for the revocation or variation of a matrimonial order under which payments fall to be made by the complainant to the defendant through the collecting officer, a certificate in writing by the collecting officer dated not earlier than ten days before the date of the hearing and stating that, during the period

mentioned in subsection (2)(a) (or so much thereof as precedes the date of the certificate) or, as the case may be, during the period mentioned in subsection (3)—

- (a) every payment made under the order has been forwarded by the collecting officer to an address outside Bermuda; and
- (b) the defendant has not to the knowledge of the collecting officer been in Bermuda at any time or, in the case of the period mentioned in subsection (3), on more than thirty days,

shall be sufficient evidence that there is reason to believe as mentioned in subsection (2)(a) or, as the case may be, in subsection (3).

(5) Nothing in this section shall authorize the making of an order by virtue of section 9 against a person residing outside Bermuda for the inclusion in a matrimonial or interim order of any provision requiring payments to be made by that person exceeding in amount those, if any, required to be made by him under the order sought to be varied, unless the order by virtue of section 9 is made at a hearing at which either that person appears or it is proved to the satisfaction of the court that the summons was served on the defendant within what appears to the court to be a reasonable time before the hearing or adjourned hearing or the defendant has appeared on a previous occasion to answer to the complaint.

Parties to complaint for variation, etc

11 (1) A complaint by virtue of section 9 for the revocation, revival or variation of a matrimonial or interim order may be made in the following cases by the following persons in addition to the parties to the marriage in question—

- (a) where a child of the family is not a child of both the parties to the marriage, a complaint relating to any provision with respect to the child such as is mentioned in section 3(1)(d) or (f) may be made by any person who, though not one of the parties to the marriage, is a parent of the child;
- (b) a complaint relating to payments under the order such as are mentioned in section 3(1)(g) may be made by any person to whom such payments fall, or upon the making of the order for which the complaint is made would fall, to be made;
- (c) where under the order a child is for the time being committed to the legal custody of some person other than one of the parents, a complaint relating to any

**MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) ACT
1974**

provision with respect to the child such as is mentioned in the said paragraph (d) or (f) may be made by any person to whose legal custody the child is committed by the order or who seeks the legal custody of the child by the complaint;

- (d) where under the order a child is for the time being under the supervision of the Director, the Director may make a complaint relating to any provision with respect to the child such as is mentioned in the said paragraphs (d), (f) and (g);
- (e) a complaint for the variation or revocation of a provision of the order that a child be under the supervision of the Director may be made by the Director, or by any person to whose legal custody the child is for the time being committed by the order or who by the same complaint also seeks the legal custody of the child.

(2) Provision may be made by rules as to what persons shall be made defendants to any such complaint as aforesaid; and where in the case of any such complaint there are two or more defendants, the court shall have power, whatever adjudication the court makes on the complaint, to order any of the parties to pay the whole or part of the costs of all or any of the other parties.

[Section 11 amended by 1998:38 effective 1 January 2000]

Appeals

12 (1) Subject to section 6 and section 7(2), an appeal shall lie to the Supreme Court from, and from the refusal or revocation of, or a refusal to revoke, a matrimonial or interim order or an order under section 9A(2) by a magistrates' court.

(2) Subject to subsection (3), any order of the Supreme Court on an appeal under this section shall for the purposes of the enforcement of the order and for the purposes of section 9 be treated as if it were an order of the magistrates' court from which the appeal was brought and not of the Supreme Court.

(3) Subsection (2) shall not apply to an order directing that a complaint shall be re-heard by a magistrates' court or, without prejudice to section 7(4), to an order to which section 7(4) applies.

Enforcement, etc

13 (1) The payment of any sum of money directed to be paid by an order made by virtue of this Act may be enforced in the same manner as the payment of money is enforced under section 36.1L of the Children Act 1998.

(2) *[Omitted]*

(3) The court making an order by virtue of this Act for payment of a periodical sum by one person to another may direct that it shall be paid to the collecting officer on that other person's behalf instead of directly to that other person.

(4) Where an order made by virtue of this Act contains a provision committing a child to the legal custody of any person, a copy of the order may be served on any other person in whose actual custody the child for the time being is; and thereupon that provision shall take effect as if it were an order of the court requiring that other person to give up the child to the person to whom the legal custody of the child is committed.

(5) Where any person disobeys an order under subsection (4) requiring him to give up the child to the person to whom the legal custody of the child is committed, the court may—

(a) order him to pay a sum not exceeding \$20 a day for every day during which he is in default; or

(b) commit him to custody for a period not exceeding three months or until he has sooner remedied his default.

(6) Any person for the time being under an obligation to make payments under any order made in proceedings brought by virtue of this Act shall give notice to such persons, if any, as may be specified in the order of any change of address; and any person who without reasonable excuse fails to comply with this subsection commits an offence:

Punishment on summary conviction: a fine of \$100.

[Section 13 amended by 2002:36 Sch para 17(c),(d) effective 19 January 2004]

Parties domiciled outside Bermuda

14 Any jurisdiction conferred on a magistrates' court by this Act is exercisable notwithstanding that any party to the proceedings is not domiciled in Bermuda.

Restrictions on persons attending proceedings of the court

14A No person, except by the leave of the court, shall be present during the hearing and determination by the court of any proceedings under this Act other than the parties to the case, their counsel and other persons directly concerned in the case.

Repeals and savings

15 *[omitted]*

Commencement

16 *[omitted]*

[This Act was brought into operation on 1 January 1975]

**MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) ACT
1974**

SCHEDULE
[omitted]

[Amended by:

1983 : 49
1998 : 38
2001 : 20
2002 : 36]